REMARKS

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

I.   Amendments to the Claims

Claims 2-5 have been amended to overcome the objections discussed below. Further, claim 11 has been amended to overcome the 35 U.S.C. § 101 rejection discussed below. All other claims remain unchanged.

II.   Objections

Claims 2 and 3 were objected to for reciting reference characters (i) and (ii) in multiple steps withihn the claims. As mentioned above, claims 2 and 3 have been amended to overcome this rejection. Specifically, claims 2 and 3 have been amended to <u>remove</u> reference characters (i) and (ii). As a result, withdrawal of the above-mentioned rejection is respectfully requested.

Further, claim 5 was objected to for reciting "characteristics output instruction," wherein the term "characteristics" should be in the genitive case. Claims 4 and 5 have been amended to comply with the Examiner's suggestion (i.e., to recite "characteristics' output instruction"). As a result, withdrawal of the above-mentioned rejection is respectfully requested.

III.   35 U.S.C. § 101 Rejection

Claims 1-10 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Specifically, claims 1-10 were rejected for reciting a device that may be entirely

software. The rejection relies on paragraph [0090] of the specification, which states that any of the embodiments "may be provided in a form of a program." This rejection is respectfully traversed for the following reasons.

Claims 1-10 recite an acquisition unit including various types of units. Taken on its face, the "unit" language would indicate that claims 1-10 require some type of hardware to provide the structure recited therein. Further, please note that when read in its entirety, paragraph [0090] does not indicate that the claimed acquisition unit is software alone.

Specifically, paragraph [0090] states "Note that each of the above-described embodiments may be provided in a form of a program to be executed by a computer. In this case, an edit reproduction program stored in a storage section (not shown) in an edit reproduction device is read, and a control section (not shown) may execute the process such as described in the above." In other words, after reviewing paragraph [0090] in its entirety, it is clear that paragraph [0090] requires that the program is stored in a storage section of a device (i.e., an apparatus), wherein a control section executes a process according to the program.

It is noted that the above-mentioned language of paragraph [0090] provides support for a claim that recites a computer-readable recording medium having a program recorded thereon, wherein the program causes a computer to execute a specific method. Thus, taken in its appropriate context, the language of paragraph [0090] does not indicate that the claimed acquisition unit is software alone.

In view of the above, it is respectfully submitted that the device of claims 1-10 is not embodied by software alone. As a result, withdrawal of this 35 U.S.C. § 101 rejection is respectfully requested.

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Additionally, claim 11 was rejected under 35 U.S.C. § 101 for reciting a method that is not tied to another statutory class or does not transform the underlying subject matter. As mentioned above, claim 11 has been amended to overcome this rejection. Specifically, claim 11 has been amended to recited "receiving, from a first reception unit used by a user, an instruction."

It is respectfully submitted that, by tying the "receiving" portion of the claimed method to the first reception unit used by the user, claim 11 now recites a method that is tied to another statutory class. As a result, withdrawal of this portion of the above-mentioned 35 U.S.C. § 101 rejection is respectfully requested.

IV.   35 U.S.C. § 102 Rejection

Claims 1, 2, 5, 7, 9 and 11-13 were rejected under 35 U.S.C. § 102(e) as being anticipated by Covell et al. (U.S. 6,782,186). This rejection is respectfully traversed for the following reasons.

Independent claim 1 recites an acquisition unit including a boundary correction unit for selecting, in accordance with an instruction received from a user (via the first reception unit), whether the boundary is shifted in one of a direction causing the CM section to be short and a direction causing the CM section to be long, and for correcting a content of the boundary information to cause the boundary to shift in accordance with the selected direction (selected according to the instruction received from the user) of the boundary shift. Covell fails to disclose or suggest the above-mentioned distinguishing feature recited in claim 1.

Rather, Covell merely teaches that a CM boundary is corrected by matching between

incoming information and previously memorized information (see col. 16, lines 39-55; and col. 18, lines 5-31).

Thus, in view of the above, it is clear that Covell teaches that the CM boundary correction requires a process of <u>matching incoming information and previously memorized information</u>, but fails to disclose or suggest <u>causing the boundary to shift in accordance with the selected direction (selected according to the instruction received from the user)</u>, as recited in claim 1.

In addition, according to Covell, since the CM boundary is adjusted based on a memorized function, more accurate CM detection needs to be executed. On the other hand, the present application is based on a notion than "an automatic CM detection technique cannot achieve 100% accuracy." Thus, claim 1 requires that in accordance with a <u>function selected by the user</u>, the CM boundary is changed, so as to reduce any annoyance felt by the user. Whereas Covell teaches that, the CM boundary correction is based on the above-described <u>automatic matching of the incoming information and the previously memorized information</u>.

Therefore, because of the above-mentioned distinctions it is believed clear that independent claim 1 and claims 2-10 that depend therefrom are not anticipated by Covell.

Furthermore, there is no disclosure or suggestion in Covell or elsewhere in the prior art of record which would have caused a person of ordinary skill in the art to modify Covell to obtain the invention of independent claim 1. Accordingly, it is respectfully submitted that independent claim 1 and claims 2-10 that depend therefrom are clearly allowable over the prior art of record.

Amended independent claims 11, 12 and 13 are directed to a method, a program, and a circuit, respectively and each recite features that correspond to the above-mentioned

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distinguishing features of independent claim 1 (e.g., boundary correction). Thus, for the same reasons discussed above, it is respectfully submitted that claims 11-13 are allowable over Covell.

V.   35 U.S.C. § 103 Rejections

Claims 3, 4, 6 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Covell. In addition, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Covell and Dagtas et al. (U.S. 2002/0080286).

Regarding dependent claims 3, 4, 6 and 8, which were rejected under 35 U.S.C. § 103(a) as being unpatentable over Covell, it is respectfully submitted that, since Covell does not disclose or suggest the above-discussed features of independent claim 1, Covell also does not disclose or suggest the features of dependent claims 3, 4, 6 and 8.

Regarding dependent claim 10, which was rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Covell and Dagtas, it is respectfully submitted that Dagtas does not disclose or suggest the above-discussed features of independent claim 1 which are lacking from the Covell reference. Therefore, no obvious combination of Covell and Dagtas would result in, or otherwise render obvious, the invention recited independent claim 1 and claims 2-10 that depend therefrom.

VI. Conclusion

In view of the above amendments and remarks, it is submitted that the present application

is now in condition for allowance and an early notification thereof is earnestly requested. The

Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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